

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

ANTHONY R. EFTHEMES

CIVIL ACTION NO.: 2:19-cv-01409

VERSUS

JUDGE JAMES D. CAIN, JR.

**AMGUARD INSURANCE COMPANY,
APEX TRANSIT, LLC and
MALIK ALEEM**

MAG. JUDGE KATHLEEN KAY

MOTION TO DISMISS CLAIMS OF MONIKA EFTHEMES

NOW INTO COURT, through undersigned counsel, come Defendants, Apex Transit, LLC, Malik Aleem, and Amguard Insurance Company, (hereinafter referred to as “Defendants”) who, pursuant to Rule 12 of the Federal Rules of Civil Procedure, and for the reasons that follow and those reasons cited in the Memorandum in Support and as evidenced in the attached Exhibits, move to dismiss the claims of Monika M. Efthemes.

I.

Plaintiff’s Petition for Damages was fax filed on May 14, 2019.¹

II.

Plaintiff’s Petition for Damages makes various allegations of injuries and damages, arising out of the police chase of a third party not named as a defendant herein.²

III.

Plaintiff’s Petition for Damages alleges that the incident causing the alleged injuries and damages occurred on May 19, 2018.³

¹ Exhibit 1, Plaintiff’s Petition for Damages.

² *Id.*

³ *Id.*

IV.

On January 31, 2020, Plaintiff Anthony Efthemes filed a Motion for Leave to Amend to File First Supplemental and Amended Complaint, which added new claims and a new claimant, plaintiff's wife, Monika Efthemes.⁴

V.

In Louisiana, the prescriptive period for a delictual action is one year and prescription commences to run the day that the injury or damage is sustained.⁵

VI.

Plaintiff's Petition for Damages made no mention of Monika Efthemes or that plaintiff had a spouse, nor gave any indication that other claimants or damages existed that were not referenced in the Petition.⁶

VII.

Defendants now move to dismiss the claims of Monika Efthemes on the grounds that more than one year has lapsed since the alleged tort, and therefore the claim must be dismissed for exceeding the limits of prescription.

WHEREFORE, Defendants, Apex Transit, LLC, Malik Aleem, and Amguard Insurance Company, pray that this motion be granted, dismissing the claims of Monika Efthemes with prejudice, and for such further relief which in equity and at law for which Defendants may be entitled.

⁴ Exhibit 2, Motion for Leave to Amend to File First Supplemental and Amended Complaint and Exhibit 3, First Supplemental and Amended Complaint.

⁵ La. Civ. Code art. 3492.

⁶ Exhibit 1, Plaintiff's Petition for Damages.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing pleading has been delivered to all counsel of record, by depositing a copy of same in the United States mail, first class postage prepaid, by hand delivery, electronic mail and/or by facsimile transmission, this 22nd day of **June, 2020**, at their last known address of record.

/s/ James H. Johnson

JAMES H. JOHNSON

Respectfully Submitted,

PERRIER & LACOSTE, LLC

/s/ James H. Johnson

CURT L. ROME, #29406

Email: crone@perrierlacoste.com

JAMES H. JOHNSON, #35848

Email: jjohnson@perrierlacoste.com

365 Canal Street, Suite 2550

New Orleans, Louisiana 70130

Tel: (504) 212-8820

Fax: (504) 212-8825

ATTORNEYS FOR DEFENDANTS,

***Apex Transit, LLC, Malik Aleem, and
Amguard Insurance Company***